

SENATE BILL 494

By Green

AN ACT to amend Tennessee Code Annotated, Title 8,
relative to defending the constitutionality and
validity of enacted legislation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-6-109(b)(9), is amended by
deleting the subdivision and substituting instead the following:

(9) To defend the constitutionality and validity of all legislation of statewide
applicability, except as provided in subdivision (b)(10), enacted by the general assembly,
except in those instances where the attorney general and reporter is of the opinion that
such legislation is not constitutional, in which event the attorney general and reporter
shall, before any responsive pleading is due in the matter, certify the same to the
speaker of each house of the general assembly and to the governor;

SECTION 2. Tennessee Code Annotated, Section 8-6-109(c), is amended by deleting
the subsection and substituting instead the following:

(c) Notwithstanding § 8-6-106 to the contrary, in all cases in which the attorney
general and reporter has certified to the speaker of each house of the general assembly
and to the governor the decision not to defend the constitutionality and validity of any law
pursuant to subsection (b), the speakers, acting jointly and within fifteen (15) days of the
date of the certification, may employ legal counsel to defend the constitutionality of such
law. If the speakers do not notify the governor of their decision to employ legal counsel
by the end of the fifteen-day period, then the governor may employ legal counsel to
defend the constitutionality of such law. Any such counsel employed by the speakers or
governor shall be paid such compensation for their services as may be deemed just by
the speakers or governor, as the case may be; the same to be paid out of any money in

the state treasury not otherwise appropriated, upon the certification of the speakers or governor to the commissioner of finance and administration.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.